IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPEAL NO. 819 OF 2000

Soma Ramji Ghute ..... Appellant.

versus

The State of Maharashtra ..... Respondents.

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Shri Suresh Bhonsale advocate appointed for the appellant.
Mrs. U.V. Kejariwal APP for the State.

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CORAM ; V.G.PALSHIKAR &
ANOOP V. MOHTA, JJ.

DATED; 21ST SEPTEMBER, 2004.

ORAL JUDGMENT (Per Palshikar, J.);

1. Being aggrieved by the the order of conviction passed by the Additional Sessions Judge, Raigad at Alibag in Sessions Case No.106 of 1999 under sections 302, of IPC on 13-10-2000 the appellant has preferred this appeal on the grounds mentioned in the memo of appeal as also orally canvassed before us.

2. With the assistance of the learned counsel for the accused and the learned Prosecutor, we have scrutinised the records of the case and re-appreciated the evidence on record.

3. The prosecution story as emerges from our re-appreciation of evidence stated briefly is that on 6-4-1999 one Babya son of accused came to Pithya P.w.1 in the morning at 9 a.m. and told him that in the previous night his father gave sickle blows to his mother and pressed her throat around 11.30 p.m. The witness therefore went to the house of Babya. He found there the victim Dhaki lying dead in a pool of blood. The sickle with blood stained was lying around. He noticed bleeding injury on her leg and her throat was pressed. The accused Soma at that time was present there and he was tied up to prevend him by running, by the people. He therefore asked the accused as to what had happened. The accused told this witness that in heat of anger he assaulted his wife as he has doubted her character. The witness therefore went to the police and lodged his complaint which was duly recorded and registered as FIR. He proved it as Exh.9. The investigation commenced and the accused was arrested and on completion of investigation the accused was charge sheeted under section 302 of IPC for murdering his wife.

4. The prosecution has examined 9 witnesses to prove its case that it is the accused/appellant who is

responsible for the homicidal death of Dhaki and he having caused it intentionally held guilty of offence under section 302 of IPC by the learned trial ,Judge as aforesaid, and convicted and sentenced him as above and this appeal is directed against the order of that convition and sentence.

5. Mr. Suresh Bhonsale who had appointed to assist the court in the matter and defend the accused, argued before us that the evidence as made by the prosecution was insufficient. There were certain contradictions and the possibility of accused being innocent cannot be over ruled. He therefore submitted that the accused is entitled to acquittal. The learned APP has opposed this submission and pointed out that there is no error in the judgment and order of the trial court and findings are proper and they are given on proper appreciation of evidence and require no interference.

6. As aforesaid, we have examined the evidence on record and we have considered the entire evidence. in this case. P.w.1 has deposed very clearly that he was told by Babya, son of accused that the accused committed murder of his wife. This witness then visited the site and found that the wife of accused lying dead and accused was tied up by rope to prevend

his running away from the field. This witness also speaks of the extra judicial confession which the accused made before the witness in which the accused has admitted that he killed his wife as he doubted her character. The cross examination of this witness heeds no result. There is nothing in it which would require disbelieving of this witness.

7. P.w.2 has turned hostile. P.w.3 has also turned hostile. Again P.w.4 has also turned hostile. P.w.5 is the panch witness who has proved the seizure of the blood stained earth and towel from the scene of offence. P.w.6 Waman Sutak is the panch of the panchanama of the dead body. P.w.7 is Waman Jadhav who is also a panch to the panchanama of seizure of article, which is at Exh.9.

8. P.w.8 is Dr. Kotekar, who is also examined and the medical testimony of this doctor provides material support to the testimony of P.w.1. P.w.9 is P.S.I. Bhagwat, who has investigated the case. The witnesses who have turned hostile are closed relations of the accused and on appreciation of the entire evidence on record therefore, we are of the firm opinion that the findings reached by the learned trial Judge are correct. They are based on proper appreciation of evidence and we therefore agree with the same. We need

not give our additional reasons for agreeing the same, as we have pointed out above our own reasons why the order of conviction is liable to be sustained.

9. In the result therefore the appeal fails and it is dismissed.

10. We quantified the fees to be paid to the learned prosecutor and the advocate appointed as Rs. 1000/- for this appeal.

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